

State of Wisconsin
2013 - 2014 LEGISLATURE



RMR

LRB-3547/PP

MGG:eev:jf

Today d-note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regen

1 AN ACT *to repeal* 20.370 (1) (cx), 77.81 (5), 77.82 (2m) (ac), 77.82 (2m) (ag), 77.82
2 (2m) (am), 77.82 (2m) (c), 77.82 (2m) (dm) 1., 77.82 (2m) (dm) 2., 77.82 (3) (am),
3 77.82 (4g), 77.82 (4m) (d), 77.83 (2) (am), 77.83 (4) (b), 77.86 (2), 77.86 (3) (title),
4 77.87 (1g) (d), 77.88 (2) (a) 1., 77.88 (3g) (a), 77.88 (4), 77.88 (5) (a) 1. and 2., 77.88
5 (5) (ab), 77.88 (5) (ar), 77.88 (5) (b), 77.88 (5) (c), 77.88 (6) and 77.91 (3); *to*
6 *renumber* 77.81 (1), 77.83 (4) (a), 77.86 (1) (a), 77.86 (1) (b) and 77.89 (2) (b);
7 *to renumber and amend* 77.06 (1), 77.81 (2m), 77.82 (1) (bn), 77.82 (12), 77.86
8 (1) (title), 77.86 (1) (c), 77.86 (1) (d), 77.86 (3), 77.88 (2) (a) (intro.), 77.88 (2) (a)
9 2., 77.88 (2) (a) 3., 77.88 (2) (e), 77.88 (2) (f), 77.88 (3), 77.88 (5) (a) (intro.) and
10 77.89 (2) (a); *to amend* 20.370 (5) (bv), 74.23 (1) (a) 2., 74.25 (1) (a) 2., 74.25 (1)
11 (a) 3., 74.30 (1) (b), 74.30 (1) (c), 77.07 (2), 77.07 (3), 77.81 (6), 77.82 (1) (a) 1.,
12 77.82 (1) (a) 2., 77.82 (1) (b) 3., 77.82 (2m) (title), 77.82 (3) (title), 77.82 (3) (ag),
13 77.82 (3) (ar), 77.82 (3) (c) (intro.), 77.82 (3) (g), 77.82 (4), 77.83 (2) (b), 77.84 (3)
14 (b), 77.86 (4), 77.86 (5) (a), 77.86 (5) (b), 77.87 (1), 77.87 (2), 77.87 (3), 77.87 (5),
15 77.876 (1), 77.876 (4), 77.88 (title), 77.88 (1) (b) 1., 77.88 (1) (c), 77.88 (2) (am),

1 77.88 (2) (b), 77.88 (2) (c), 77.88 (3) (title), 77.88 (3g) (title), 77.88 (3g) (am)
2 (intro.), 77.88 (3g) (b), 77.88 (3g) (c), 77.88 (3j) (c), 77.88 (3m), 77.88 (5) (am) 1.,
3 77.88 (5m), 77.88 (7), 77.88 (8) (b), 77.883 (3), 77.885 (intro.), 77.89 (1), 77.89
4 (2) (title) and 77.91 (3m); **to repeal and recreate** 77.86 (title); and **to create**
5 77.10 (2) (d), 77.81 (1d), 77.81 (2r), 77.81 (4m), 77.82 (1) (a) 1m., 77.82 (1) (bp),
6 77.82 (3m), 77.82 (12) (a) 2., 77.82 (12) (a) 4., 77.82 (12) (a) 5., 77.82 (12) (a) 6.,
7 77.83 (2) (ar), 77.83 (2) (d), 77.86 (1g) (title), 77.86 (4m), 77.88 (2) (a) (title), 77.88
8 (2) (ac) (title), 77.88 (2) (d) (title), 77.88 (2m), 77.88 (3) (am), 77.88 (3) (b) (title),
9 77.88 (3) (b) 1. (intro.) and 2., 77.88 (3) (c), 77.88 (3) (d), 77.88 (3g) (c), 77.88 (3j),
10 77.88 (3k), 77.88 (3L), 77.88 (4m), 77.88 (5) (ac), 77.88 (5) (am) (title) and 77.89
11 (3) (title) of the statutes; **relating to:** eligibility requirements under the
12 managed forest land program relating to parcel size and production of
13 merchantable timber, management plans for managed forest lands, orders
14 adding and withdrawing managed forest land, renewal of orders designating
15 managed forest land, areas of managed forest lands that are open for public
16 access, allowing managed forest lands to be used for recreational activities,
17 regulation of cutting of timber on managed forest land and on forest croplands,
18 withdrawal taxes and fees imposed on the withdrawal of managed forest land
19 and yield taxes imposed for cutting timber from managed forest land, the sale
20 or transfer of managed forest land, expiration of orders designating managed
21 forest land, withdrawal of forest croplands that are held in trust for Indian
22 tribes, a study of the managed forest land program, a report on exempt
23 withdrawals from the managed forest land program and the forest cropland
24 program, elimination of references to the woodland tax law, granting

- 1 rule-making authority, requiring the exercise of rule-making authority, and
2 providing a penalty. *that is lower than, and in lieu of,*

Analysis by the Legislative Reference Bureau *CAN*

Under current law, certain forested land may be designated as managed forest land (MFL) under a program administered by the Department of Natural Resources (DNR). Under this program, the owner of land designated as MFL makes an annual acreage share payment *instead of the property taxes that normally would be payable.* In exchange, the landowner must comply with certain forestry practices and have a management plan prepared for the land. The owner must also open the MFL to the public for hunting, fishing, hiking, sight-seeing, and cross-country skiing, but may designate up to a certain number of acres as being closed to the public. For MFL that is designated as closed, the owner must make an additional payment per acre. A landowner seeking to have land designated as MFL submits an application to DNR *that contains* ~~containing the~~ management plan. If the MFL meets the eligibility requirements under the program, which include minimum acreage requirements and requirements as to how much merchantable timber ~~must~~ be produced on the land, DNR approves the application and issues an order designating the land as MFL. A landowner may choose to have the order last 25 or 50 years. *for the land*

A similar program exists for land designated as forest cropland (FCL). Since July 1985, no new land may be subject to the FCL program. However, there is forest land that is currently in this program since the designations last for 25 or 50 years.

Eligibility under the managed forest land program

Under current law, for a parcel of land to be eligible to be designated as MFL it must be at least ten contiguous acres in size. Also, at least 80 percent of the parcel must be producing or be capable of producing a minimum of 20 cubic feet of merchantable timber per acre per year. The parcel may have public or private roads or railway or utility rights-of ways running through it. This bill increases this minimum acreage requirement from ten acres to 20 acres.

Under current law, a parcel that is developed for a human residence is not eligible for designation as MFL. Under the bill, a parcel is not eligible if there is any building, or any improvement associated with a building, located on the parcel. The bill defines a building to include any structure used as shelter, as a place of employment, or as storage. Under the bill, an "improvement" includes any accessory building, structure, or fixture that is placed on a parcel for the parcel's benefit. The bill also specifically excludes roads, certain rights-of ways, fences, and other structures from being considered improvements. *X*

Access to closed lands

This bill requires the owner of open MFL to ensure that the public has access to the land. Sometimes, open MFL is surrounded by closed MFL or other private property, making it impossible for the public to access the land without having

have to

permission from an owner of some of the surrounding land. Under the bill, the method and location of access to open MFL must be equivalent to the method and location that is used by the owner of the MFL. If the owner is unable to provide such access, DNR must modify the designation of the land from being open to being closed.

Leasing of managed forest land

Under current law, an owner of MFL may not lease the land or enter into any other agreement under which the owner receives consideration for the purpose of allowing persons to engage in certain recreational activities, such as hunting, hiking, horseback riding, and staying in cabins on the MFL. Current law provides an exception for agreements under which reasonable membership fees are charged by a nonprofit organization and that are approved by DNR.

This bill repeals this prohibition and specifically authorizes owners of MFL to enter into leases or other agreements to allow closed MFL that is not part of a large property to be used for recreational activities. The bill also expands the types of recreational activities for which the land may be leased to include any recreational outdoor activity that DNR determines to be not incompatible with the practice of forestry.

Sales and transfers of land under the managed forest land program

Under current law, an owner may sell or otherwise transfer an entire parcel of MFL. An owner may also sell or transfer part of a parcel of MFL if the land being sold or transferred is all of the owner's land located in a quarter quarter section or in a government lot or fractional lot. Forty acres make up a quarter quarter section. A government or fractional lot is an irregularly shaped lot usually fronting on water, which could not be divided practically into sections when it was surveyed by the federal government. This bill eliminates these restrictions so that any owner may sell or transfer an entire parcel or any part of a parcel.

Under current law, the land remaining under a MFL order after a sale or transfer of part of a parcel continues to be eligible as MFL and does not need to be withdrawn regardless of its size if it is all in one piece (contiguous) and will meet the productivity requirements for producing merchantable timber, if it is not developed for a human residence, and if it is not used for commercial recreation, for industry, or for any other purpose that DNR determines to be incompatible with the practice of forestry. Under the bill, the remaining land does not have to be contiguous but must be at least 20 acres in size in order to continue to be eligible as MFL.

Withdrawals of managed forest land

Under current law, DNR may issue an order withdrawing land from a parcel that has been designated as MFL under certain circumstances. These include a determination by DNR that the land does not comply with ^{the} eligibility requirements under the program or that the owner has failed to comply with the requirements of the program or with the management plan prepared for the land. Current law also allows owners to voluntarily withdraw land under certain circumstances. Under current law, an owner may withdraw all of the owner's land or all of the land that is

on the MFL land that is withdrawn

in a quarter quarter section or in a government or fractional lot. An owner may also voluntarily withdraw land on a one-time basis under certain circumstances for the purpose of construction of a residence. When land is voluntarily withdrawn for this purpose, the owner must pay withdrawal taxes and a withdrawal fee.

This bill creates additional provisions that allow MFL to be voluntarily withdrawn. Under the bill, an owner may voluntarily withdraw part of an MFL parcel for the purpose of selling it or using it as a construction site, other than a construction site for a residence. Under this provision, the land withdrawn may not be less than one acre and may not be more than five acres. The bill limits the number of times that MFL may be withdrawn for this purpose and requires the owner to pay withdrawal taxes on the MFL that is withdrawn, as well as a withdrawal fee. *the* *and the*

Under the bill, MFL may also be voluntarily withdrawn by an owner if DNR determines that part of a parcel is unsuitable for the production of merchantable timber, due to environmental, ecological, or economic or other concerns, or if DNR determines that the parcel is unable to produce merchantable timber in the amount required under the MFL program. The owner may withdraw only the number of acres that is necessary for the parcel to resume sustainable production of merchantable timber or to resume its ability to meet the merchantable timber production requirement described above. The owner is exempt from paying a withdrawal tax or fee for these types of withdrawal.

Assessment of withdrawal taxes and yield taxes

Under current law, when DNR issues an order of withdrawal that requires the payment of a withdrawal tax and fee, DNR determines the amount of the tax and assesses the tax and fee against the owner. Withdrawal taxes are assessed for voluntary and DNR withdrawals, as described above, withdrawals that are required when land is no longer eligible as MFL due to the sale or transfer of part of a parcel, and withdrawals that are required as a result of failing to pay property taxes.

Under this bill, once DNR has issued the order of withdrawal, the county in which the MFL is located, instead of DNR, determines the amount of the tax and assesses the tax and the fee against the owner.

Similarly, under current law, when merchantable timber is cut from MFL, DNR determines the amount of the yield tax and assesses that amount. Under the bill, the county in which the MFL is located assesses the yield tax.

Calculation of withdrawal taxes

Under current law, the withdrawal tax is the higher of two amounts: the amount of past tax liability, less the acreage share payments and yield taxes paid, or 5 percent of the stumpage value of the merchantable timber on the land. Under current law, variations on this method of calculating the withdrawal taxes are used depending on when the land was designated as MFL, how long the land has been designated as MFL, and whether the MFL is subject to an original order or an order that has been renewed. *(taxes paid)*

This bill eliminates these methods of calculating *the* withdrawal *tax* taxes. Instead, the bill creates a single method of calculating this tax. Under the bill, the amount *less the taxes paid*

(municipality)
of withdrawal tax is calculated by multiplying the total net property tax rate imposed by the city, town, or village in which the land is located by the assessed value of the land being withdrawn, and then multiplying that amount by ten years, or the number of years the MFL was subject to the order, whichever is fewer.

Distribution of assessed withdrawal taxes and yield taxes

Under current law, DNR deposits the yield taxes and withdrawal taxes it collects in the conservation fund. DNR then makes a payment to each ~~city, town, or village~~ (municipality) in which the MFL is located that is equal to the amount of withdrawal tax or yield tax assessed by DNR that is applicable to the MFL in that municipality. Under this bill, the county that assesses the yield and withdrawal taxes distributes to each municipality in the county in which the MFL is located 80 percent of applicable yield or withdrawal taxes. The county retains the remaining 20 percent. The county also keeps the withdrawal fees.

Renewals of MFL orders

Under current law, an MFL order may be renewed at the end of its 25-year or 50-year term. DNR may deny an application for renewal only if the land does not comply with the eligibility requirements, the owner has failed to comply with the management plan for the MFL, or delinquent taxes are owed on the land. This bill creates additional grounds that DNR may use for denying a renewal application. Under the bill, DNR may deny the application if the land that is subject to the renewal application is not identical to the MFL under the existing order or if certain requirements for establishing, updating, and reviewing mandatory forestry soil and conservation practices in a management plan are not met.

Large properties; cuttings; management plans

This bill creates different cutting notice requirements for parcels of either MFL or FCL that are under the same ownership and that are collectively greater than 1,000 acres in size (large property). Under current law, an owner of MFL must file with DNR a notice of intent to cut merchantable timber at least 30 days before the cutting. DNR must approve the cutting if it finds that the cutting is in conformance with the owner's management plan and is consistent with sound forestry practices. The bill exempts the owner of a large property from having to file cutting notices ~~as required by the statutes~~ if an independent forestry organization recognized by DNR certifies that the owner is qualified to ensure that its timber cutting is consistent with sound forestry practices and if the owner complies with rules regulating cutting practices that are promulgated by DNR.

Under current law, a landowner must submit with the MFL application a management plan that contains a statement of the owner's forest management objectives, a description of the forestry and soil conservation practices that will be undertaken on the MFL, and supporting maps, aerial photographs, or diagrams. Under the bill, DNR may modify these general requirements for management plans that are prepared for large properties. In determining whether to do so, DNR must consider certain factors. These factors include how much MFL the applicant already

owns and whether the applicant has consistent access to technical forest management assistance.

Other provisions

This bill creates a provision that allows an owner of MFL that has been damaged by a natural disaster to restore the productivity of the land so that it meets the requirements under the MFL for producing merchantable timber. DNR determines the amount of time that the owner will have to restore the land. If the owner fails to complete the restoration within that time period, either DNR may order withdrawal of the land or the owner of the land may request withdrawal of the land. The owner is exempt from payment of withdrawal taxes if the owner makes the request and DNR determines that the MFL is unable to meet the production requirements for merchantable timber and if the owner withdraws only the number of acres necessary for the parcel to again meet the production requirements.

Under current law, DNR must prepare management plans if DNR determines that an owner submitting an application to have land designated as MFL is unable to have a management plan prepared by an independent plan writer who is certified by DNR but who is not acting on behalf of DNR. Also, DNR may complete a plan if it does not initially meet DNR's approval. Under current law, DNR charges fees for preparing and completing plans. This bill repeals all of the provisions relating to DNR's preparation and completion of plans.

Under current law, DNR must issue a withdrawal order removing all lands owned by an Indian tribe from the MFL program if requested to do so by the tribe and if the tribe provides DNR with the date on which the MFL will be transferred to the federal government to be held in trust for the tribe and if the tribe and DNR have in effect a written agreement that the land will continue to be treated as MFL until the date that the MFL order would have expired. This bill creates a parallel provision for withdrawals from the FCL program.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 20.370 (1) (cx) of the statutes is repealed.
- 2 **SECTION 2.** 20.370 (5) (bv) of the statutes is amended to read:
- 3 20.370 (5) (bv) *Resource aids — county forests, forest croplands and managed*
- 4 *forest land aids.* A sum sufficient to pay county forest aids under s. 28.11 (8) (a),

✓

Cropland

1 forest ~~croplands~~ aids under subch. I of ch. 77 and managed forest land aids under ss.
2 s. 77.85 and ~~77.89 (1)~~.

3 **SECTION 3.** 74.23 (1) (a) 2. of the statutes is amended to read:

4 74.23 (1) (a) 2. Pay to the proper treasurer all collections of special
5 assessments, special charges and special taxes, except that occupational taxes under
6 ss. 70.40 to 70.421 and forest ~~cropland, woodland~~ and managed forest land taxes
7 under ch. 77 shall be settled for under s. 74.25 (1) (a) 1. to 8.

8 **SECTION 4.** 74.25 (1) (a) 2. of the statutes is amended to read:

9 74.25 (1) (a) 2. Pay to the proper treasurer all collections of special
10 assessments, special charges and special taxes, except that occupational taxes under
11 ss. 70.40 to 70.421 and forest ~~cropland, woodland~~ and managed forest land taxes
12 under ch. 77 shall be settled for under subds. 5. to 8.

13 **SECTION 5.** 74.25 (1) (a) 3. of the statutes is amended to read:

14 74.25 (1) (a) 3. Retain all collections of special assessments, special charges and
15 special taxes due to the taxation district, except that occupational taxes under ss.
16 70.40 to 70.421 and forest ~~cropland, woodland~~ and managed forest land taxes under
17 ch. 77 shall be settled for under subds. 5. to 8.

18 **SECTION 6.** 74.30 (1) (b) of the statutes is amended to read:

19 74.30 (1) (b) Pay to the proper treasurer all collections of special assessments,
20 special charges and special taxes, except that occupational taxes under ss. 70.40 to
21 70.421 and forest ~~cropland, woodland~~ and managed forest land taxes under ch. 77
22 shall be settled for under pars. (e) to (h).

23 **SECTION 7.** 74.30 (1) (c) of the statutes is amended to read:

24 74.30 (1) (c) Retain all collections of special assessments, special charges and
25 special taxes due to the taxation district, except that occupational taxes under ss.

70.40 to 70.421 and forest cropland, ~~woodland~~ and managed forest land taxes under ch. 77 shall be settled for under pars. (e) to (h).

SECTION 8. 77.06 (1) of the statutes is renumbered 77.06 (1) (a) and amended to read:

77.06 (1) (a) ~~No~~ Except as provided in par. (b), no person shall cut any merchantable wood products on any forest croplands where the forest ~~crop~~^{cropland} taxes are delinquent nor until 30 days after the owner has filed with the department of natural resources a notice of intention to cut, specifying by descriptions and the estimated amount of wood products to be removed and the proportion of present volume to be left as growing stock in the area to be cut. The owner of a large property, as defined in s. 77.81 (2r), does not have to file a notice of intention to cut if all of the requirements under s. 77.86 (4m) (a) have been met.

(b) The department of natural resources may require a bond executed by some surety company licensed in this state or other surety for such amount as may reasonably be required for the payment to the department of natural resources of the severance tax ~~hereinafter provided~~ prescribed in sub. (5). The department, after examination of the lands specified, may prescribe the amount of forest products to be removed.

(c) Cutting in excess of the amount prescribed shall render the owner liable to double the severance tax prescribed in s. ~~77.06~~ sub. (5) and subject to cancellation under s. 77.10.

(d) Merchantable wood products include all wood products except wood used for fuel by the owner.

SECTION 9. 77.07 (2) of the statutes is amended to read:

1 **77.07 (2) PENALTY, COLLECTIONS.** If any severance tax ~~remain~~ remains unpaid
2 for 30 days after it becomes due, there shall then be added a penalty of 10 percent,
3 and such tax and penalty shall thereafter draw interest at the rate of one percent per
4 month until paid. At the expiration of said 30 days the department of natural
5 resources shall report to the attorney general any unpaid severance tax, adding said
6 penalty, and the attorney general shall thereupon proceed to collect the same with
7 penalty and interest by suit against the owner and by attachment or other legal
8 means to enforce the lien and by action on the bond mentioned in s. 77.06 (1) (b), or
9 by any or all such means.

10 **SECTION 10.** 77.07 (3) of the statutes is amended to read:

11 **77.07 (3) DISTRIBUTION OF SEVERANCE TAX.** All severance taxes collected under
12 this subchapter shall be distributed as follows: The state shall retain an amount
13 equal to the total acreage payments on the lands to which the severance taxes relate,
14 made by the state under s. 77.05, and all penalties imposed under sub. (2) and s. 77.06
15 (1) (c), and the balance shall be paid to the town treasurer to be apportioned as
16 provided in s. 77.04 (3).

17 **SECTION 11.** 77.10 (2) (d) of the statutes is created to read:

18 **77.10 (2) (d)** Upon request of an Indian tribe, the department shall issue an
19 order of withdrawal for the land that is owned in fee and that is subject to a contract
20 under s. 77.03. The land withdrawn is not subjected to the tax payment calculated
21 under par. (a) if all of the following apply:

22 1. The Indian tribe provides the department the date of the order to transfer
23 the land to the United States to be held in trust for the tribe.

1 2. The tribe and the department have in effect a written agreement under ✓
2 which the tribe agrees that the land shall continue to be treated as forest ^{croplands} ~~cropland~~
3 until the date on which the contract under s. 77.03 would have expired.

4 **SECTION 12.** 77.81 (1) of the statutes is renumbered 77.81 (1j).

5 **SECTION 13.** 77.81 (1d) of the statutes is created to read:

6 77.81 (1d) "Building" includes any structure used for sheltering people,
7 machinery, animals, or plants; used for storing property; used for parking, sales, or
8 display space; or used as a place of employment.

9 **SECTION 14.** 77.81 (2m) of the statutes is renumbered 77.81 (1g) and amended
10 to read:

11 77.81 (1g) "~~Independent-certified~~ Certified plan writer" means a plan writer
12 certified by the department ~~but who is not acting under contract with the department~~
13 under s. 77.82 (3) (g).

14 **SECTION 15.** 77.81 (2r) of the statutes is created to read:

15 77.81 (2r) "Large property" means one or more separate parcels of land that
16 are under the same ownership, that collectively are greater than 1,000 acres in size,
17 and that are managed forest land or forest [✓]croplands or a combination thereof.

 ***NOTE: A reference to "forest [✓]croplands" needed to be added to this definition.
 See s. 77.06 (1), as treated in this draft.

18 **SECTION 16.** 77.81 (4m) of the statutes is created to read:

19 77.81 (4m) "Natural disaster" means fire, ice, snow, wind, flooding, insects, or
20 disease.

21 **SECTION 17.** 77.81 (5) of the statutes is repealed.

22 **SECTION 18.** 77.81 (6) of the statutes is amended to read:

1 77.81 (6) "Recreational activities" ~~include~~ means recreational outdoor
2 activities that are not incompatible with the practice of forestry, as determined by the
3 department. "Recreational activities" includes hunting, fishing, hiking,
4 sight-seeing, cross-country skiing, horseback riding, and staying in cabins.

5 **SECTION 19.** 77.82 (1) (a) 1. of the statutes is amended to read:

6 77.82 (1) (a) 1. It consists of at least 10 contiguous acres, except as provided in
7 ~~this subdivision. The par. (am). This subdivision applies to applications under sub.~~
8 (2), (4m), or (12) that are filed before the effective date of this subdivision [LRB
9 inserts datel.

10 ~~(am) For purposes of par. (a) 1. and 1m., the fact that a lake, river, stream or~~
11 ~~flowage, a public or private road or a railroad or utility right-of-way separates any~~
12 ~~part of the land from any other part does not render a parcel of land noncontiguous.~~
13 ~~If a part of a parcel of at least 10 contiguous acres is separated from another part of~~
14 ~~that parcel by a public road, that part of the parcel may be enrolled in the program,~~
15 ~~even if that part is less than 10 acres, if that part meets the requirement under subd.~~
16 ~~2. and is not ineligible under par. (b).~~

17 **SECTION 20.** 77.82 (1) (a) 1m. of the statutes is created to read:

18 77.82 (1) (a) 1m. It consists of at least 20 contiguous acres, except as provided
19 in par. (am). This subdivision applies to applications under sub. (2), (4m), or (12) that
20 are filed on or after the effective date of this subdivision [LRB inserts date].

21 **SECTION 21.** 77.82 (1) (a) 2. of the statutes is amended to read:

22 77.82 (1) (a) 2. At least 80% of the parcel must be producing or capable of
23 producing a minimum of 20 cubic feet of merchantable timber per acre per year,
24 except as provided in s. 77.88 (2m).

25 **SECTION 22.** 77.82 (1) (b) 3. of the statutes is amended to read:

1 77.82 (1) (b) 3. A parcel ~~that is developed for a human residence on which a~~
2 building or an improvement associated with a building is located.

3 **SECTION 23.** 77.82 (1) (bn) of the statutes is renumbered 77.88 (3g) (d) and
4 amended to read:

5 77.88 (3g) (d) For purposes of ~~par. (b) 3.~~ this subsection and sub. (3j), the
6 department by rule shall define “human residence” to include a residence of the
7 applicant regardless of whether it is the applicant’s primary residence. The
8 definition may also include up to one acre surrounding the residence for a residence
9 that is not the applicant’s primary residence.

10 **SECTION 24.** 77.82 (1) (bp) of the statutes is created to read:

11 77.82 (1) (bp) 1. For purposes of par. (b) 3., and except as provided in subd. 2.,
12 an improvement is any of the following:

13 a. Any accessory building, structure, or fixture that is built or placed on the
14 parcel for its benefit.

 ****NOTE: I added “accessory” to distinguish the term from any “main” building that
 would be covered by the definition of “building.”

15 b. Landscaping that is done on the parcel.

16 2. An improvement does not include any of the following:

17 a. A public or private road.

18 b. A railroad or utility right-of way.

19 c. A fence, unless the fence prevents the free and open movement of wild
20 animals across any portion of the parcel.

 ****NOTE: I did not limit subd. 2. c. to permanent fences since that would result in
 temporary fences being improvements.

21 d. Culverts.

22 e. Bridges.

1 f. Other buildings, structures, and fixtures that are needed for sound forestry
2 practices.

3 **SECTION 25.** 77.82 (2m) (title) of the statutes is amended to read:

4 77.82 (2m) (title) FEES FOR APPLICATIONS AND MANAGEMENT PLANS.

5 **SECTION 26.** 77.82 (2m) (ac) of the statutes is repealed.

6 **SECTION 27.** 77.82 (2m) (ag) of the statutes is repealed.

7 **SECTION 28.** 77.82 (2m) (am) of the statutes is repealed.

8 **SECTION 29.** 77.82 (2m) (c) of the statutes is repealed.

9 **SECTION 30.** 77.82 (2m) (dm) 1. of the statutes is repealed.

10 **SECTION 31.** 77.82 (2m) (dm) 2. of the statutes is repealed.

11 **SECTION 32.** 77.82 (3) (title) of the statutes is amended to read:

12 77.82 (3) (title) MANAGEMENT PLAN PLANS.

13 **SECTION 33.** 77.82 (3) (ag) of the statutes is amended to read:

14 77.82 (3) (ag) A proposed management plan shall cover the entire acreage of
15 each parcel subject to the application and shall be prepared by ~~an independent a~~
16 ~~certified plan writer or by the department if par. (am) applies on a form provided by~~
17 the department.

18 **SECTION 34.** 77.82 (3) (am) of the statutes is repealed.

19 **SECTION 35.** 77.82 (3) (ar) of the statutes is amended to read:

20 77.82 (3) (ar) For ~~a~~ each proposed management plan ~~prepared by an~~
21 ~~independent certified plan writer prepared under par. (ag),~~ the department, after
22 considering the owner's forest management objectives as stated under sub. (2) (e),
23 shall review and either approve or disapprove the proposed management plan. If the
24 department disapproves the proposed plan, it shall inform the applicant of the
25 changes necessary to qualify the plan for approval upon subsequent review. ~~At the~~

1 ~~request of the applicant, the department may agree to complete the proposed~~
2 ~~management plan.~~

3 **SECTION 36.** 77.82 (3) (c) (intro.) of the statutes is amended to read:

4 77.82 (3) (c) (intro.) To qualify for approval, a management plan shall include
5 all of the following items:

6 **SECTION 37.** 77.82 (3) (g) of the statutes is amended to read:

7 77.82 (3) (g) The department shall certify plan writers and shall promulgate
8 rules specifying the qualifications that a person must satisfy to become a certified
9 plan writer. ~~For management plans prepared or completed by the department under~~
10 ~~this subsection, the department may contract with plan writers certified by the~~
11 ~~department to prepare and complete these plans.~~

12 **SECTION 38.** 77.82 (3m) of the statutes is created to read:

13 77.82 (3m) MANAGEMENT PLANS; LARGE PROPERTIES. (a) Notwithstanding sub.
14 (3) (c), the department may modify any item that is required in a management plan
15 for a large property. In determining whether to make a modification, the department
16 shall consider all of the following:

17 1. Whether the owner of the large property owns other land that is designated
18 as managed forest land or that ^{is} ~~is~~ forest cropland ^{or} ~~subject~~ to a contract under s. 77.03.

19 2. The total number of counties in which either or both of the following are
20 located:

21 a. Land that is covered by the proposed management plan.

22 b. Land that is owned by the applicant ^{and} ~~that is~~ designated as managed forest
23 land or that ^{is} ~~is~~ forest cropland ^{or} ~~subject~~ to a contract under s. 77.03.

24 3. Whether a management plan that has been prepared by or for the applicant
25 and that is acceptable to the department exists and is available for review.

1 4. Whether the owner submits a written commitment that the owner will
2 provide any information from the owner's management plan that may be requested
3 by the department. The commitment shall describe the proposed management plan
4 and shall include a procedure to be used to amend or update the plan.

5 5. Whether the owner has demonstrated that it has consistent access to
6 technical forest management assistance provided by its own staff or consultants.

7 (b) If the managed forest land that remains after a withdrawal or transfer of
8 ownership no longer constitutes a large property, the department shall notify the
9 owner of the land remaining subject to the managed forest land order that the owner
10 must prepare a new management plan for the remaining land. The new plan shall
11 be prepared in accordance with the procedures and requirements under sub. (3). The
12 owner shall submit the plan to the department within one year after being notified.

13 **SECTION 39.** 77.82 (4) of the statutes is amended to read:

14 **77.82 (4) ADDITIONS TO MANAGED FOREST LAND.** An owner of land that is
15 designated as managed forest land ~~under an order that takes effect on or after April~~
16 ~~28, 2004,~~ may file an application with the department to designate as managed forest
17 land an additional parcel of land if the additional parcel is at least 3 acres in size and
18 is contiguous to any of that designated land. The application shall be accompanied
19 by a nonrefundable \$20 application recording fee unless a different amount for the
20 fee is established by the department by rule at an amount equal to the average
21 expense to the department of recording an order issued under this subchapter. The
22 fee shall be deposited in the conservation fund and credited to the appropriation
23 under s. 20.370 (1) (cr). The application shall be filed on a department form and shall
24 contain any additional information required by the department.

25 **SECTION 40.** 77.82 (4g) of the statutes is repealed.

1 **SECTION 41.** 77.82 (4m) (d) of the statutes is repealed.

2 **SECTION 42.** 77.82 (12) of the statutes is renumbered 77.82 (12) (a) and
3 amended to read:

4 **77.82 (12) (a)** An owner of managed forest land may file an application with the
5 department under sub. (2) for renewal of the order. An application for renewal shall
6 be filed no later than the June 1 before the expiration date of the order. The
7 application shall specify whether the owner wants the order renewed for 25 or 50
8 years. The provisions under subs. (3), (5), (6), and (7) do not apply to an application
9 under this subsection paragraph. The department may deny the application only if
10 the any of the following apply:

11 1. The land fails to meet the eligibility requirements under sub. (1), ~~if the,~~

12 3. The owner has failed to comply with the management plan that is in effect
13 on the date that the application for renewal is filed, ~~or if there,~~

14 7. There are delinquent taxes on the land.

15 (b) If the application is denied, the department shall state the reason for the
16 denial in writing.

17 **SECTION 43.** 77.82 (12) (a) 2. of the statutes is created to read:

18 **77.82 (12) (a) 2.** The land that is subject to the application for renewal of the
19 order is not identical to the land that is designated as managed forest land under the
20 existing order.

21 **SECTION 44.** 77.82 (12) (a) 4. of the statutes is created to read:

22 **77.82 (12) (a) 4.** The management plan does not contain any mandatory
23 forestry or soil conservation practices, as described in sub. (3) (c) 6. and 7., or any
24 mandatory management activities, as described in sub. (3) (d), that the department
25 determines are required to be continued during the term of the renewed order.

1 **SECTION 45.** 77.82 (12) (a) 5. of the statutes is created to read:

2 77.82 (12) (a) 5. No review of the mandatory forestry or soil conservation
3 practices or the mandatory management activities contained in the management
4 plan has been conducted within the 5 years immediately preceding the date of the
5 application for renewal.

6 **SECTION 46.** 77.82 (12) (a) 6. of the statutes is created to read:

7 77.82 (12) (a) 6. Within the 5 years immediately preceding the date of the
8 application for renewal, the management plan has not been updated to reflect the
9 completion of any forestry or soil conservation practices or management activities
10 contained in the plan.

11 **SECTION 47.** 77.83 (2) (am) of the statutes is repealed.

12 **SECTION 48.** 77.83 (2) (ar) of the statutes is created to read:

13 77.83 (2) (ar) An owner of managed forest land may enter into a lease or other
14 agreement for consideration that permits persons to engage in a recreational activity
15 on managed forest land that is designated as closed and that is not part of a large
16 property.

 ****NOTE: As drafted, this authorization is limited to closed MFL. OK?

17 **SECTION 49.** 77.83 (2) (b) of the statutes is amended to read:

18 77.83 (2) (b) An owner may restrict public access to any area of open managed
19 forest land which is within 300 feet of any building or within 300 feet of a commercial
20 logging, thinning, or reforestation operation that conforms or other forest
21 management activity if the operation or activity conforms to the management plan.

22 **SECTION 50.** 77.83 (2) (d) of the statutes is created to read:

23 77.83 (2) (d) 1. An owner of managed forest land that is designated as open shall
24 ensure that the public has access to that land for all of the purposes specified in par.

1 (a). The method of access and location of the access shall be equivalent to the method
2 of access and location of the access that is used by the owner of the land.

3 2. If the owner is unable to provide the access that is required under subd. 1.,
4 the department shall modify the designation of the land from being open to being
5 closed.

6 **SECTION 51.** 77.83 (4) (a) of the statutes is renumbered 77.83 (4).

7 **SECTION 52.** 77.83 (4) (b) of the statutes is repealed.

8 **SECTION 53.** 77.84 (3) (b) of the statutes is amended to read:

9 77.84 (3) (b) Immediately after receiving the certification of the county clerk
10 that a tax deed has been taken, the department shall issue an order withdrawing the
11 land as ~~managed forest land. The notice requirement under s. 77.88 (1) does not~~
12 ~~apply to the department's action under this paragraph. The department shall notify~~
13 ~~the county treasurer of the amount of the withdrawal fee under s. 77.88 (5m) and the,~~
14 The county shall determine the amount of the withdrawal tax, as determined under
15 s. 77.88 (5). The amount of the tax and the fee shall be payable to the department
16 under s. 75.36 (3) if the property is sold by the county. The amount shall be credited
17 to the conservation fund., and shall assess the withdrawal tax and the withdrawal
18 fee under s. 77.88 (5m) against the owner of the land. The notice requirement under
19 s. 77.88 (1) does not apply to the department's action under this paragraph.

20 **SECTION 54.** 77.86 (title) of the statutes is repealed and recreated to read:

21 **77.86 (title) Cutting practices.**

22 **SECTION 55.** 77.86 (1) (title) of the statutes is renumbered 77.86 (1b) (title) and
23 amended to read:

24 **77.86 (1b) (title) CUTTING REGULATED PROHIBITED.**

25 **SECTION 56.** 77.86 (1) (a) of the statutes is renumbered 77.86 (1b).

1 **SECTION 57.** 77.86 (1) (b) of the statutes is renumbered 77.86 (1g) (a).

2 **SECTION 58.** 77.86 (1) (c) of the statutes is renumbered 77.86 (1g) (b) and
3 amended to read:

4 **77.86 (1g) (b)** If the ~~proposed~~ cutting proposed under par. (a) conforms to the
5 management plan and is consistent with sound forestry practices, the department
6 shall approve the request.

7 **SECTION 59.** 77.86 (1) (d) of the statutes is renumbered 77.86 (1g) (c) and
8 amended to read:

9 **77.86 (1g) (c)** If the ~~proposed~~ cutting proposed under par. (a) does not conform
10 to the management plan or is not consistent with sound forestry practices, the
11 department shall assist the owner in developing an acceptable proposal before
12 approving the request.

13 **SECTION 60.** 77.86 (1g) (title) of the statutes is created to read:

14 **77.86 (1g) (title)** APPROVAL BY DEPARTMENT.

15 **SECTION 61.** 77.86 (2) of the statutes is repealed.

16 **SECTION 62.** 77.86 (3) (title) of the statutes is repealed.

17 **SECTION 63.** 77.86 (3) of the statutes is renumbered 77.86 (1g) (d) and amended
18 to read:

19 **77.86 (1g) (d)** All cutting specified in the notice under ~~sub. (1) (b)~~ par. (a) shall
20 be commenced within one year after the date the proposed cutting is approved. The
21 owner shall report to the department the date on which the cutting is commenced.

22 **SECTION 64.** 77.86 (4) of the statutes is amended to read:

23 **77.86 (4) REPORTING.** Within 30 days after completion of any cutting approved
24 ~~under this section~~ subject to sub. (1g), the owner shall report to the department, on
25 a form provided by the department, a description of the species of wood, kind of

1 product and the quantity of each species cut as shown by the scale or measurement
2 made on the ground as cut, skidded, loaded or delivered, or by tree scale certified by
3 a forester acceptable to the department if the wood is sold by tree measurement.

4 **SECTION 65.** 77.86 (4m) of the statutes is created to read:

5 77.86 (4m) LARGE PROPERTIES. (a) The owner of a large property is exempt from
6 the requirements under sub. (1g) if all of the following requirements are met:

7 1. The owner has received certification from an independent forestry
8 organization that the owner is qualified to ensure that cutting of timber from the
9 large property is consistent with sound forestry practices.

10 2. The department has recognized that the independent forestry organization
11 under subd. 1. is qualified to make certifications under subd. 1. and under the rules
12 promulgated under par. (b).

13 3. The owner complies with the rules promulgated under par. (c).

14 (b) The department shall promulgate rules that establish standards that an
15 independent forestry organization shall meet in order to be recognized by the
16 department for purposes of par. (a) 1.

17 (c) The department shall promulgate rules that establish cutting requirements
18 that apply to owners of large properties. These rules shall include:

19 1. A requirement that proposed cuttings comply with the applicable
20 management plans of owners of large properties and that they are consistent with
21 sound forestry practices.

22 2. Requirements for cutting notices.

23 3. Time limits for the completion of cuttings.

24 4. Procedures for requesting variances from the requirements established
25 under subds. 1. and 3.

1 5. Procedures to allow the department to audit the cutting of timber on the large
2 property.

3 **SECTION 66.** 77.86 (5) (a) of the statutes is amended to read:

4 77.86 (5) (a) Any person who fails to file the notice required under sub. (1) (b)
5 (1g) (a), who fails to file a report as required under sub. (4), ~~or~~ who files a false report
6 under sub. (4), or who fails to comply with a rule promulgated under sub. (4m) (c)
7 shall forfeit not more than \$1,000.

8 **SECTION 67.** 77.86 (5) (b) of the statutes is amended to read:

9 77.86 (5) (b) Any owner who cuts merchantable timber in violation of this
10 section or a rule promulgated under sub. (4m) (c) is subject to a forfeiture equal to
11 20% of the current value of the merchantable timber cut, based on the stumpage
12 value established under s. 77.91 (1).

13 **SECTION 68.** 77.87 (1) of the statutes is amended to read:

14 77.87 (1) TAXATION. The department shall ~~assess a~~ determine the amount of
15 yield tax to be assessed against each ~~an~~ owner who cuts merchantable timber in a
16 given county and who files a report under s. 77.86. If the owner fails to timely file
17 a report under s. 77.86 (4), the department shall determine the value of the
18 merchantable timber cut ~~for the assessment of~~ and the yield tax. The department
19 shall then certify to each county in which the cutting occurred the amount of yield
20 tax to be assessed by that county. The yield tax assessed by a county under this
21 subsection shall equal 5% of the value of the merchantable timber cut, based on the
22 stumpage value established under s. 77.91 (1). ~~The department~~ A county assessing
23 a yield tax under this subsection or under sub. (2) shall mail a copy of the certificate
24 of assessment to the owner at the owner's last-known address.

25 **SECTION 69.** 77.87 (1g) (d) of the statutes is repealed.

1 **SECTION 70.** 77.87 (2) of the statutes is amended to read:

2 **77.87 (2) SUPPLEMENTAL YIELD TAX.** At any time within one year after a report
3 is filed under s. 77.86 (4), the department, after notifying the owner and providing
4 the owner with the opportunity for a hearing, may determine whether the report is
5 accurate. If the department determines that the quantity of merchantable timber
6 cut exceeded the amount on which the tax was assessed under sub. (1), the
7 department shall assess ~~a~~ certify to each county in which the timber was cut the
8 amount of supplemental yield tax to be assessed by that county on the additional
9 amount as provided under sub. (1).

10 **SECTION 71.** 77.87 (3) of the statutes is amended to read:

11 **77.87 (3) PAYMENT.** A tax assessed under sub. (1) or (2) is due and payable to
12 ~~the department~~ each county in which the cutting of merchantable timber occurred
13 on the last day of the next month following the date the certificate is mailed to the
14 owner. ~~The department~~ county shall collect interest at the rate of 12% per year on
15 any tax that is paid later than the due date. ~~Amounts received shall be credited to~~
16 ~~the conservation fund.~~

17 **SECTION 72.** 77.87 (5) of the statutes is amended to read:

18 **77.87 (5) DELINQUENCY.** If a tax due under this section is not paid on or before
19 the last day of the August following the date specified under sub. (3), ~~the department~~
20 county shall certify to the ~~taxation district clerk~~ municipal clerk of each municipality
21 in which the cutting occurred the description of the land, and the amount due for the
22 tax and interest. ~~The taxation district~~ municipal clerk shall enter the delinquent
23 amount on the property tax roll as a special charge.

24 **SECTION 73.** 77.876 (1) of the statutes is amended to read:

1 77.876 (1) ASSESSMENT. The department shall certify to each municipality in
2 which the ~~property~~ land is located an owner's failure to complete a forestry practice
3 during the period of time required under an applicable management plan, and the
4 municipality shall impose a noncompliance assessment of \$250 against the owner for
5 each failure. The department shall mail a copy of the certificate of assessment to the
6 owner at the owner's last-known address and to the municipality.

7 **SECTION 74.** 77.876 (4) of the statutes is amended to read:

8 77.876 (4) DELINQUENCY. If an assessment due under sub. (1) is not paid on or
9 before the last day of the August following the date specified under sub. (2), the
10 municipality shall ~~certify to the taxation district clerk the description of the land and~~
11 ~~the amount due for the assessment and interest. The taxation district municipal~~
12 clerk shall enter the delinquent amount on the property tax roll as a special charge.

13 **SECTION 75.** 77.88 (title) of the statutes is amended to read:

14 77.88 (title) ~~Withdrawal~~ Withdrawals; transfer of ownership;
15 ~~nonrenewal~~ expiration.

16 **SECTION 76.** 77.88 (1) (b) 1. of the statutes is amended to read:

17 77.88 (1) (b) 1. Failure of the land to conform to an eligibility requirement
18 under s. 77.82 (1), except as provided in sub. (2m).

19 **SECTION 77.** 77.88 (1) (c) of the statutes is amended to read:

20 77.88 (1) (c) If the department determines that land should be withdrawn, it
21 shall issue an order withdrawing the land ~~as managed forest land and.~~ The county
22 in which the land is located shall determine the amount of the withdrawal tax under
23 sub. (5). The county shall then assess against the owner the tax under sub. (5) and
24 the withdrawal tax and the withdrawal fee under sub. (5m) against the owner of the
25 land.

1 **SECTION 78.** 77.88 (2) (a) (title) of the statutes is created to read:

2 77.88 (2) (a) (title) *Authority to transfer.*

3 **SECTION 79.** 77.88 (2) (a) (intro.) of the statutes is renumbered 77.88 (2) (a) and
4 amended to read:

5 77.88 (2) (a) ~~Except as provided in par. (am), an~~ An owner may sell or otherwise
6 transfer ownership of all or part of a parcel of the owner's managed forest land ~~if the~~
7 ~~land transferred is one of the following.~~

8 **SECTION 80.** 77.88 (2) (a) 1. of the statutes is repealed.

9 **SECTION 81.** 77.88 (2) (a) 2. of the statutes is renumbered 77.88 (3) (b) 1. a. and
10 amended to read:

11 77.88 (3) (b) 1. a. All of ~~an~~ the owner's managed forest land within a quarter
12 quarter section.

13 **SECTION 82.** 77.88 (2) (a) 3. of the statutes is renumbered 77.88 (3) (b) 1. b. and
14 amended to read:

15 77.88 (3) (b) 1. b. All of ~~an~~ the owner's managed forest land within a
16 government lot or fractional lot as determined by the U.S. government survey plat.

17 **SECTION 83.** 77.88 (2) (ac) (title) of the statutes is created to read:

18 77.88 (2) (ac) (title) *Transferred land; requirements met.*

19 **SECTION 84.** 77.88 (2) (am) of the statutes is amended to read:

20 77.88 (2) (am) Transferred land; requirements not met. If the land transferred
21 under par. (a) does not meet the eligibility requirements under s. 77.82 (1) (a) and
22 (b), the department shall issue an order withdrawing the land ~~from managed forest~~
23 ~~land designation and shall assess against the owner a.~~ The county in which the land
24 is located shall determine the amount of the withdrawal tax under sub. (5). The

1 county shall then assess the withdrawal tax and the withdrawal fee under sub. (5m)
2 against the owner of the land.

3 **SECTION 85.** 77.88 (2) (b) of the statutes is amended to read:

4 77.88 (2) (b) Remaining land; requirements met. If the land remaining after
5 a transfer under par. (a) ~~is contiguous and~~ meets the eligibility requirements under
6 s. 77.82 (1) (a) ~~2.~~ and (b), it the remaining land shall continue to be designated as
7 managed forest land ~~until the expiration of the existing order, even if the parcel~~
8 ~~contains less than 10 acres. Notwithstanding s. 77.82 (12), an owner may not file an~~
9 ~~application with the department for renewal of the order if the parcel contains less~~
10 ~~than 10 acres. No withdrawal tax under sub. (5) or withdrawal fee under sub. (5m)~~
11 ~~may be assessed when the remaining land is withdrawn at the expiration of the~~
12 ~~order.~~

13 **SECTION 86.** 77.88 (2) (c) of the statutes is amended to read:

14 77.88 (2) (c) Remaining land; requirements not met. If the remaining land
15 remaining after a transfer under par. (a) does not meet the eligibility requirements
16 under s. 77.82 (1) (a) ~~2.~~ and (b), the department shall issue an order withdrawing the
17 land ~~and.~~ The county in which the land is located shall determine the amount of the
18 withdrawal tax under sub. (5). The county shall then assess against the owner the
19 ~~withdrawal tax under sub. (5) and the~~ withdrawal tax and the withdrawal fee under
20 sub. (5m) against the owner of the land. Notwithstanding s. 77.90, the owner is not
21 entitled to a hearing on an order withdrawing land under this paragraph.

22 **SECTION 87.** 77.88 (2) (d) (title) of the statutes is created to read:

23 77.88 (2) (d) (title) *Report by transferee; fee.*

24 **SECTION 88.** 77.88 (2) (e) of the statutes is renumbered 77.88 (2) (ac) 1. and
25 amended to read:

1 77.88 (2) (ac) 1. ~~The transferred~~ If the land shall remain transferred under par.
2 (a) meets the eligibility requirements under s. 77.82 (1) (a) and (b), the land shall
3 continue to be designated as managed forest land if the transferee, within 30 days
4 after the transfer, certifies to the department an intent to comply with the existing
5 management plan for the land and with any amendments to the plan, and provides
6 proof that each person holding any encumbrance on the land agrees to the
7 designation. The transferee may designate an area of the transferred land closed to
8 public access as provided under s. 77.83. The department shall issue an order
9 continuing the designation of the land as managed forest land under the new
10 ownership.

11 **SECTION 89.** 77.88 (2) (f) of the statutes is renumbered 77.88 (2) (ac) 2. and
12 amended to read:

13 77.88 (2) (ac) 2. If the transferee does not provide the department with the
14 certification required under ~~par. (e) subd. 1.~~, the department shall issue an order
15 withdrawing the land ~~and.~~ The county in which the land is located shall determine
16 the amount of the withdrawal tax under sub. (5). The county shall then assess
17 ~~against the transferee the withdrawal tax under sub. (5) and the withdrawal fee~~
18 under sub. (5m) against the transferee. Notwithstanding s. 77.90, the transferee is
19 not entitled to a hearing on an order withdrawing land under this ~~paragraph~~
20 subdivision.

21 **SECTION 90.** 77.88 (2m) of the statutes is created to read:

22 77.88 (2m) DAMAGE TO LAND. (a) If a parcel of managed forest land has been
23 damaged by a natural disaster, the owner of the parcel may notify the department,
24 and the department shall establish a period of time that the owner of the parcel will

1 have to restore the productivity of the land so that it meets the requirements under
2 s. 77.82 (1) (a) 2.

3 (b) If the owner fails to complete the restoration in the applicable period of time,
4 the owner may request that the department withdraw all or part of the land in
5 accordance with sub. (3) or (3k), or the department may proceed with a withdrawal
6 by department order under sub. (1).

7 (c) The department may promulgate a rule that establishes criteria to be used
8 by the department for determining the length of time that an owner shall have to
9 complete the restoration.

10 **SECTION 91.** 77.88 (3) (title) of the statutes is amended to read:

11 77.88 (3) (title) VOLUNTARY WITHDRAWAL; TOTAL OR PARTIAL.

12 **SECTION 92.** 77.88 (3) of the statutes, as affected by 2013 Wisconsin Act 81, is
13 renumbered 77.88 (3) (b) (intro.) and amended to read:

14 77.88 (3) (b) (intro.) ~~An owner may~~ Upon request ~~that the department~~
15 ~~withdraw all or any~~ of an owner of managed forest land to withdraw part of the
16 ~~owner's land meeting one of the requirements specified under sub. (2) (a) 1. to 3. If~~
17 ~~any remaining land meets the eligibility requirements under s. 77.82 (1) a parcel of~~
18 managed forest land, the department shall issue an order withdrawing the land
19 subject to the request ~~and shall assess against the owner the withdrawal tax under~~
20 ~~sub. (5) and the withdrawal fee under sub. (5m). If the land being withdrawn is~~
21 ~~within a proposed ferrous mining site, the department shall issue the order within~~
22 ~~30 days after receiving the request. if all of the following apply:~~

23 **SECTION 93.** 77.88 (3) (am) of the statutes is created to read:

1 77.88 (3) (am) *Entire parcels*. Upon request of an owner of managed forest land
2 to withdraw an entire parcel of managed forest land, the department shall issue an
3 order withdrawing the land.

4 **SECTION 94.** 77.88 (3) (b) (title) of the statutes is created to read:

5 77.88 (3) (b) (title) *Parts of parcels*.

6 **SECTION 95.** 77.88 (3) (b) 1. (intro.) and 2. of the statutes are created to read:

7 77.88 (3) (b) 1. (intro.) The land to be withdrawn is one of the following:

8 2. The land remaining after the withdrawal will continue to meet the eligibility
9 requirements under s. 77.82 (1).

10 **SECTION 96.** 77.88 (3) (c) of the statutes is created to read:

11 77.88 (3) (c) *Withdrawal tax and fee*. Upon issuance of an order of withdrawal
12 under this subsection, the county in which the land is located shall determine the
13 amount of the withdrawal tax under sub. (5). The county shall then assess the
14 withdrawal tax and the withdrawal fee under sub. (5m) against the owner of the
15 land.

16 **SECTION 97.** 77.88 (3) (d) of the statutes is created to read:

17 77.88 (3) (d) *Ferrous mining site*. If the land being withdrawn under this
18 subsection is within a proposed ferrous mining site, the department shall issue the
19 order within 30 days after receiving the request.

20 **SECTION 98.** 77.88 (3g) (title) of the statutes, as created by 2013 Wisconsin Act
21 20, is amended to read:

22 77.88 (3g) (title) ~~WITHDRAWAL FOR~~ VOLUNTARY WITHDRAWAL; CONSTRUCTION OF A
23 RESIDENCE.

24 **SECTION 99.** 77.88 (3g) (a) of the statutes, as created by 2013 Wisconsin Act 20,
25 is repealed.

1 **SECTION 100.** 77.88 (3g) (am) (intro.) of the statutes, as created by 2013
2 Wisconsin Act 20, is amended to read:

3 77.88 (3g) (am) (intro.) Except as provided in par. (b), upon the request of an
4 owner of managed forest land to withdraw at least one acre of the owner's land as
5 ~~managed forest land~~, the department shall ~~order withdrawal of~~ issue an order
6 withdrawing the land if all of the following apply:

7 **SECTION 101.** 77.88 (3g) (b) of the statutes, as created by 2013 Wisconsin Act
8 20, is amended to read:

9 77.88 (3g) (b) The department may not issue an order ~~withdrawal of~~
10 withdrawing land under par. (am) from a parcel of managed forest land if the
11 department has previously ~~ordered withdrawal of~~ issued an order withdrawing land
12 under par. (am) from that parcel of managed forest land during the term of the order
13 designating the land as managed forest land.

14 **SECTION 102.** 77.88 (3g) (c) of the statutes is created to read:

15 77.88 (3g) (c) Upon issuance of an order withdrawing land under this
16 subsection, the department shall assess against the owner of the land the
17 withdrawal tax under sub. (5) and the withdrawal fee under sub. (5m).

18 **SECTION 103.** 77.88 (3g) (c) of the statutes, as created by 2013 Wisconsin Act
19 (this act), is amended to read:

20 77.88 (3g) (c) Upon issuance of an order withdrawing land under this
21 subsection, the ~~department~~ county in which the land is located shall determine the
22 amount of the withdrawal tax under sub. (5). The county shall then assess against
23 ~~the owner of the land~~ the withdrawal tax ~~under sub. (5)~~ and the withdrawal fee under
24 sub. (5m) against the owner of the land.

25 **SECTION 104.** 77.88 (3j) of the statutes is created to read:

1 77.88 (3j) VOLUNTARY WITHDRAWAL; OTHER CONSTRUCTION; SMALL LAND SALES. (a)
2 Except as provided in par. (b), upon the request of an owner of managed forest land
3 to withdraw part of a parcel of the owner's land, the department shall issue an order
4 withdrawing the land subject to the request if all of the following apply:

5 1. The purpose for which the owner requests that the department withdraw the
6 land is for the sale of the land or for a construction site, other than a construction site
7 for a human residence.

8 2. The land to be withdrawn is not less than 1.0 acres and not more than 5.0
9 acres. Partial acres may not be withdrawn.

10 3. If the land is subject to a city, village, town, or county zoning ordinance that
11 establishes a minimum acreage for ownership of land or for a construction site, the
12 owner requests that the department withdraw not less than that minimum acreage.

13 (b) 1. For land that is designated as managed forest land under an order with
14 a term of 25 years, the department may not issue an order of withdrawal under par.
15 (a) if the department has previously issued an order of withdrawal under par. (a)
16 from that parcel of managed forest land during the term of the order.

17 2. For land that is designated as managed forest land under an order with a
18 term of 50 years, the department may not issue an order of withdrawal under par.
19 (a) if the department has previously issued 2 orders of withdrawal under par. (a) from
20 that parcel of managed forest land during the term of the order.

21 (c) Upon issuance of an order withdrawing land under this subsection, the
22 department shall assess against the owner of the land the withdrawal tax under sub.
23 (5) and the withdrawal fee under sub. (5m).

24 **SECTION 105.** 77.88 (3j) (c) of the statutes, as created by 2013 Wisconsin Act
25 (this act), is amended to read:

1 77.88 (3j) (c) Upon issuance of an order withdrawing land under this
2 subsection, the ~~department~~ county in which the land is located shall determine the
3 amount of the withdrawal tax under sub. (5). The county shall then assess against
4 ~~the owner of the land the withdrawal tax under sub. (5) and the withdrawal fee under~~
5 ~~sub. (5m) against the owner of the land.~~

6 **SECTION 106.** 77.88 (3k) of the statutes is created to read:

7 77.88 (3k) VOLUNTARY WITHDRAWAL; PRODUCTIVITY. Upon the request of an owner
8 of managed forest land to withdraw part of a parcel of the owner's land, the
9 department shall issue an order of withdrawal if the department determines that the
10 parcel is unable to produce merchantable timber in the amount required under s.
11 77.82 (1) (a) 2. The order shall withdraw only the number of acres that is necessary
12 for the parcel to resume its ability to produce the required amount. No withdrawal
13 tax under sub. (5) or withdrawal fee under sub. (5m) may be assessed.

14 **SECTION 107.** 77.88 (3L) of the statutes is created to read:

15 77.88 (3L) VOLUNTARY WITHDRAWAL; SUSTAINABILITY. Upon the request of an
16 owner of managed forest land to withdraw part of a parcel of the owner's land, the
17 department shall issue an order of withdrawal if the department determines that the
18 parcel is unsuitable, due to environmental, ecological, or economic concerns or
19 factors, for the production of merchantable timber. The order shall withdraw only
20 the number of acres that is necessary for the parcel to resume its sustainability to
21 produce merchantable timber. No withdrawal tax under sub. (5) or withdrawal fee
22 under sub. (5m) may be assessed.

23 **SECTION 108.** 77.88 (3m) of the statutes is amended to read:

24 77.88 (3m) WITHDRAWAL FOR FAILURE TO PAY PERSONAL PROPERTY TAXES. If an
25 owner of managed forest land has not paid the personal property tax due for a

1 building on managed forest land before the February settlement date under s. 74.30
2 (1), the municipality in which the building is located shall certify to the county in
3 which the land is located and to the department that a delinquency exists and shall
4 include the legal description of the managed forest land on which the building is
5 located in the certification. Immediately after receiving the certification, the
6 department shall issue an order withdrawing the land as managed forest land. The
7 county shall determine the amount of the withdrawal tax under sub. (5) and shall
8 assess against the owner of the land the withdrawal tax under sub. (5) and the
9 withdrawal fee under sub. (5m) against the owner of the land. Notwithstanding s.
10 77.90, the owner is not entitled to a hearing on an order withdrawing land under this
11 subsection.

12 **SECTION 109.** 77.88 (4) of the statutes is repealed.

13 **SECTION 110.** 77.88 (4m) of the statutes is created to read:

14 77.88 (4m) EXPIRATION OF ORDERS. The department shall maintain a list of
15 orders designating managed forest lands that have expired. The department shall
16 add a parcel to the list within 30 days after the date of expiration. For each expired
17 order, the list shall provide a description of the land and shall identify each
18 municipality in which the managed forest land is located.

19 **SECTION 111.** 77.88 (5) (a) (intro.) of the statutes is renumbered 77.88 (5) (ae)
20 and amended to read:

21 77.88 (5) (ae) Tax liability; general. Except as provided in ~~pars. par.~~ (am), ~~(ar)~~,
22 ~~and (b)~~, for land withdrawn during a managed forest land order, the withdrawal tax
23 ~~shall be the higher of the following:~~ equal the amount of past tax liability that is
24 applicable to the land.

1 **SECTION 112.** 77.88 (5) (a) 1. and 2. of the statutes, as affected by 2013
2 Wisconsin Act 81, are repealed.

3 **SECTION 113.** 77.88 (5) (ab) of the statutes is repealed.

4 **SECTION 114.** 77.88 (5) (ac) of the statutes is created to read:

5 77.88 (5) (ac) *Calculation of past tax liability.* For purposes of this subsection,
6 the amount of past tax liability for land to be withdrawn from the managed forest
7 land program shall be calculated by multiplying the total net property tax rate in the
8 municipality in which managed forest land to be withdrawn is located in the year
9 prior to the withdrawal of the land by an amount equal to the assessed value of the
10 land for that same year, as calculated by the department of revenue, and by then
11 multiplying that product by 10 years or by the number of years the land was
12 designated as managed forest land, whichever number is fewer.

13 **SECTION 115.** 77.88 (5) (am) (title) of the statutes is created to read:

14 77.88 (5) (am) (title) *Converted forest croplands.*

15 **SECTION 116.** 77.88 (5) (am) 1. of the statutes is amended to read:

16 77.88 (5) (am) 1. The amount ~~calculated under par. (a)~~ of past tax liability for
17 the land.

18 **SECTION 117.** 77.88 (5) (ar) of the statutes, as affected by 2013 Wisconsin Act
19 81, is repealed.

20 **SECTION 118.** 77.88 (5) (b) of the statutes, as affected by 2013 Wisconsin Act 81,
21 is repealed.

22 **SECTION 119.** 77.88 (5) (c) of the statutes is repealed.

23 **SECTION 120.** 77.88 (5m) of the statutes is amended to read:

1 77.88 (5m) WITHDRAWAL FEE. The withdrawal fee assessed by the department
2 a county under s. 77.84 (3) (b) and subs. (1) (c), (2) (ac) 2., (am), and (c), and (f), (3)
3 (c), (3g), (3j), and (3m) shall be \$300.

4 **SECTION 121.** 77.88 (6) of the statutes is repealed.

5 **SECTION 122.** 77.88 (7) of the statutes is amended to read:

6 77.88 (7) PAYMENT; DELINQUENCY. Taxes under sub. (5) and fees under sub. (5m)
7 are due and payable to the department each county in which the land is located on
8 the last day of the month following the effective date of the withdrawal order.
9 ~~Amounts received shall be credited to the conservation fund.~~ If the owner of the land
10 fails to pay the tax or fee, the department county shall certify to the ~~taxation district~~
11 municipal clerk of each municipality in which the land is located the amount due.
12 The ~~taxation district~~ municipal clerk shall enter the delinquent amount on the
13 property tax roll as a special charge.

14 **SECTION 123.** 77.88 (8) (b) of the statutes, as affected by 2013 Wisconsin Act 20,
15 is amended to read:

16 77.88 (8) (b) The department may not issue an order of withdrawal of land
17 remaining that remains after a transfer of ownership is made under par. (a) 1., 2.,
18 or 3., or after a lease is entered into under par. (a) 3., ~~or after the department orders~~
19 ~~withdrawal of land under sub. (3g) (am)~~ unless the remainder fails to meet the
20 eligibility requirements under s. 77.82 (1).

21 **SECTION 124.** 77.883 (3) of the statutes, as created by 2013 Wisconsin Act 1, is
22 amended to read:

23 77.883 (3) Section 77.86 ~~(1) (e) and (d) (1g) (b) and (c)~~ do not apply to cutting
24 of timber or another activity on managed forest land if all of the requirements in sub.
25 (1) (a) to (d) are met.

1 **SECTION 125.** 77.885 (intro.) of the statutes is amended to read:

2 **77.885 Withdrawal of tribal lands.** (intro.) Upon request of an Indian tribe,
3 the department shall issue an order the withdrawal of withdrawing the land that is
4 owned in fee and that is designated as managed forest land from the managed forest
5 land program. No withdrawal tax under s. 77.88 (5) or withdrawal fee under s. 77.88
6 (5m) may be assessed against an Indian tribe for the withdrawal of such land if all
7 of the following apply:

8 **SECTION 126.** 77.89 (1) of the statutes is amended to read:

9 **77.89 (1) ~~PAYMENT~~ PAYMENTS BY COUNTIES TO MUNICIPALITIES.** By June 30 of each
10 year, ~~the department, from the appropriation under s. 20.370 (5) (bv),~~ each county
11 shall pay 100 80 percent of each payment received under ss. 77.84 (3) (b) and 77.87
12 (3) and 100 80 percent of each withdrawal tax payment received under s. 77.88 (7)
13 to the treasurer of each municipality in which is located the land to which the
14 payment applies is located and shall deposit the remainder in the county treasury.

15 **SECTION 127.** 77.89 (2) (title) of the statutes is amended to read:

16 **77.89 (2) (title) ~~PAYMENT~~ PAYMENTS BY MUNICIPALITIES TO COUNTIES.**

17 **SECTION 128.** 77.89 (2) (a) of the statutes, as affected by 2013 Wisconsin Act 81,
18 is renumbered 77.89 (2) and amended to read:

19 **77.89 (2)** Each municipal treasurer shall pay 20% of each payment received
20 ~~under sub. (1) and~~ under ss. 77.84 (2) (a), (am), and (bp), 77.85, and 77.876 to the
21 county treasurer of the county in which the municipality is located and shall deposit
22 the remainder in the municipal treasury. The payment to the county treasurer for
23 money received before November 1 of any year shall be made on or before the
24 November 15 after its receipt. For money received on or after November 1 of any year,

1 the payment to the county treasurer shall be made on or before November 15 of the
2 following year.

3 **SECTION 129.** 77.89 (2) (b) of the statutes is renumbered 77.89 (3).

4 **SECTION 130.** 77.89 (3) (title) of the statutes is created to read:

5 77.89 (3) (title) MUNICIPAL PAYMENTS THROUGH COUNTIES TO DEPARTMENT.

6 **SECTION 131.** 77.91 (3) of the statutes is repealed.

7 **SECTION 132.** 77.91 (3m) of the statutes, as affected by 2013 Wisconsin Act 54,
8 is amended to read:

9 77.91 (3m) REPORT TO LEGISLATURE. Beginning with calendar year ~~1992~~ 2013,
10 the department shall calculate for each calendar year whether the amount of land
11 exempt from penalty or tax under s. 77.10 (2) (c) or (d) or 77.88 (8) that is withdrawn
12 during that calendar year under s. 77.10 ~~or~~, 77.88, or 77.885 exceeds 1% of the total
13 amount of land that is subject to contracts under subch. I or subject to orders under
14 this subchapter on December 31 of that calendar year. If the amount of withdrawn
15 ~~or classified~~ land that is so exempt exceeds 1%, the department shall make a report
16 of its calculations to the governor and the chief clerk of each house of the legislature
17 for distribution to the appropriate standing committees under s. 13.172 (3).

18 **SECTION 133. Initial applicability.**

19 (1) DISTRIBUTION OF MONEYS BY COUNTIES. The treatment of section 77.89 (1) of
20 the statutes first applies to payments made by counties on the effective date of this
21 subsection.

22 (2) DISTRIBUTION OF MONEYS BY MUNICIPALITIES. The treatment of section 77.89
23 (2) (title), (a), and (b) and (3) (title) first applies to payments made by municipalities
24 on the effective date of this subsection.

(3) CALCULATION OF PAST TAX LIABILITY UPON WITHDRAWAL. The treatment of section 77.88 (5) (a) (intro.), 1., and 2., (ab), (ac), (am) (title) and 1., (ar), (b), and (c) and (6) of the statutes first applies to orders of withdrawal that are issued on the effective date of this subsection.

SECTION 134. Effective dates. This act takes effect on the day after publication, except as follows:

(1) ASSESSMENTS OF YIELD AND WITHDRAWAL TAXES AND FEES BY COUNTIES. The treatment of sections 77.84 (3) (b), 77.87 (1), (2), (3), and (5), 77.88 (1) (c), (2) (am), (c), and (f), (3) (c), (3m), (5m), and (7) of the statutes and the amendment of section 77.88 (3g) (c) and (3j) (c) of the statutes take effect on January 1, 2015.

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

7
LRB-3547/P6dn
MGG:eev:jf

~~January 22, 2014~~

date

Insert P6 ↓

1. Regarding leasing of MFL for recreational activities: I could find no past administrative rule that authorized the leasing of MFL for recreational activities. There used to be a note in the code following the definition of "developed for commercial recreation." The definition and note read as follows:

"NR 46.15 (8) 'Developed for commercial recreation' means the alteration of the land or its features or the addition of improvements which impede, interfere with, or prevent the practice of forestry.

Note: This definition is not meant to preclude or prohibit a landowner from leasing land for hunting or other recreational activities compatible with the practice of forestry."

I have based the provision in s. 77.83 (2) (ar), created in this bill, on the language used in this note.

The note has since disappeared from the administrative code but the definition remains. The defined phrase is used in the current statutes. See s. 77.82 (1) (b) 2. This type of commercial recreation seems different than leasing lands for recreational activities. See the definition of "recreational activities" in s. 77.81 (6). However, let me know if you think any additional changes in the statutes are needed.

2. The draft is silent on how a county becomes aware that DNR has entered an order of withdrawal. Do you want additional language drafted?

3. There are embedded notes in this draft to assist you in your review.

4. Again, we did a partial redraft to P6 and then a final redraft to P7.

↑ As it is amended in this draft

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.gibson-glass@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3547/P7dn
MGG:eev:...

date

Insert P6

^

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3547/P7dn
MGG:eev:rs

January 23, 2014

1. Regarding leasing of MFL for recreational activities: I could find no past administrative rule that authorized the leasing of MFL for recreational activities. There used to be a note in the code following the definition of "developed for commercial recreation." The definition and note read as follows:

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Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.gibson-glass@legis.wisconsin.gov

Gibson-Glass, Mary

From: Gary, Tim
Sent: Friday, January 24, 2014 12:40 PM
To: Gibson-Glass, Mary
Subject: FW: DNR Response LRB-3547/P7

for /p8

Importance: High

Mary,

Please incorporate the DNR's comments. If you need to work things out on the remaining issue of withdrawal taxes or anything else, I remain confident Bob Mather and DNR stand ready to speak with you.

Tim Gary

From: Mather, Robert J - DNR [<mailto:Robert.Mather@wisconsin.gov>]
Sent: Friday, January 24, 2014 12:30 PM
To: Gary, Tim
Cc: Mursau, Jeff; Bruhn, Michael L - DNR; Zastrow, Darrell E - DNR; DeLong, Paul J - DNR; Nelson, Kathryn J - DNR
Subject: FW: DNR Response LRB-3547/P7
Importance: High

Hi Tim: We want to thank you for this opportunity to provide comments.

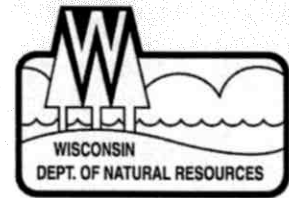


DNR_Response_...

Take care,
Bob

Robert J. Mather
Director, Bureau of Forest Management
Wisconsin Department of Natural Resources
101 S Webster St., PO Box 7921
Madison, WI 53707-7921
Office: 608-266-1727
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Find us on Facebook: www.facebook.com/WIDNR

We are committed to service excellence.
Visit our survey at <http://dnr.wi.gov/u/?q=33>
to evaluate how I did.



for / ps

Date: January 24, 2014

To: Rep. Mursau

From: Bob Mather

Re: Comments on LRB-3547/P7

Thank you for allowing the Department of Natural Resources (DNR) the ability to review LRB-3547/P7 and the Drafter's Note regarding recreational leasing. DNR has the following comments.

Section 24. Regarding the Note on the term "accessory" to distinguish an "accessory" building from a "main" building.

DNR agrees with the use of this term and believes that the term is easy to define and use in the administration of the MFL program.

Section 24. Regarding the Note regarding the decision to not differentiate between a permanent fence and temporary fence.

DNR agrees with this decision and believes that it would be easy to administer the MFL program with the current proposed wording.

Section 48. Regarding the authorization of recreational leases on MFL-Closed lands, except if the lands are a large property.

DNR agrees with this wording since it makes it clear that leases can only be on MFL-Closed lands. The wording makes it clear that leases on MFL-Open or large properties are a violation of the MFL law.

Section 53. Regarding the process to collect withdrawal taxes on lands in which a tax deed are taken.

Currently, DNR is required to withdraw lands from the MFL program after the county has taken a tax deed on the lands for a landowner's failure to pay their property taxes, including MFL acreage share taxes. DNR informs the county the amount of the withdrawal tax and fee and requires the county to pay the department this amount if the county sells the land.

The proposed amended wording requires the county to assess the withdrawal tax and fee on lands in which the county has taken a tax deed "against the owner of the land." The proposed wording has deleted the wording "if the property is sold by the county." This wording may be confusing to the county since after passage of LRB-3547/P7 the county would be assessing the withdrawal tax and fee to the owner (which is the county) regardless of whether the county retains ownership of the land or sells the land.

DNR believes that to prevent potential confusion, the words "if the property is sold by the county" could be re-inserted into the draft legislation after the words "against the owner of the land" in Line 23, page 19. Placing these words back into the amended statute leaves the original intent of the statutes intact in that the county does not have to pay the municipality (80% of the withdrawal tax) or themselves (20% of the withdrawal tax and the \$300 withdrawal fee) unless the lands are sold.

Regarding the Drafter's Note

Note 1. Regarding past administrative rules that authorized the leasing of MFL lands.

DNR agrees with the proposed wording in both the definitions and body of the statutes to repeal the leasing prohibition for small landowners. No other additional changes are requested.

Here is additional historical information on the leasing prohibition.

The past administrative rule did indeed allow for leasing, and was changed in 1992. Under Wis. Stats. s. 77.82(b)(2), land is not eligible for designation into the MFL program when it "is developed for commercial recreation." From 1986 through 1992, the Department interpreted this provision under Wis. Admin. Code NR 46.15(8), which stated;

'Developed for commercial recreation' means the alteration or use of the land or its features, including snow cover, or a use for economic gain or where consideration is received by the landowner for recreational activities.

Included under the definition was a note, which stated:

Note: This definition is intended to apply to the commercial use of the land ranging from activities requiring little or no physical alteration of land, such as merely leasing lands for hunting or charging for cross-country skiing, to activities requiring development of facilities such as downhill ski runs with lifts.

As a result, leasing for recreational purposes was prohibited on lands designated under the MFL program. This rule and definition were created directly after the passage of the MFL in 1985, and reflect the Natural Resource Board's interpretation of the overall intent of the MFL program with regard to recreational access.

However, in 1992, the Department revisited this definition, and replaced the original definition of "developed for commercial recreation" under Wis. Admin. Code NR 46.15(8) with the current Wis. Admin. Code NR 46.15(8) definition which states:

'Developed for commercial recreation' means the alteration of land or its features or the addition of improvements which impede, interfere with or prevent the practice of forestry.

Again, a note was included with this definition, stating:

Note: This definition is not meant to preclude or prohibit a landowner from leasing land for hunting or other recreational activities compatible with the practice of forestry which are consistent with the open or closed area restrictions under s. 77.83.

As a result of 2007 Wis. Act. 20, landowners were prohibited from leasing lands for recreational activities, including hunting, fishing, hiking, sight-seeing, cross-country skiing, horseback riding and staying in cabins.

DNR created a definition of "consideration" under Wis. Admin. Code s. NR 46.15(3m)

(3m) "Consideration" means a benefit to the promisor or a detriment to the promisee, including the receipt of cash, goods, or in-kind services. Consideration does not include payments received from a governmental body or non-profit organization where the purpose of the payment is to provide public access for a recreational activity.

Note: This definition clarifies the legislative intent of 2007 Wisconsin Act 20 which prohibits receiving consideration for recreation on MFL land. The definition of "consideration" is not meant to prohibit landowners, neighbors, and friends from assisting each other in property management activities, such as clearing and maintaining fences, watching each other's properties, or sharing land management activities (such as conducting timber stand and wildlife habitat improvement projects where several parties could collectively supply the proper equipment). The definition of "consideration" is also not meant to prohibit hunters and other recreational users from thanking landowners for recreating on their lands or providing a gift for the use of the land, as long as the gift is reasonable and given freely. DNR encourages friendly hunter-landowner relationships. The definition of "consideration" is meant to prevent landowners from requiring cash, goods, and services from recreational users as a condition for using lands under the MFL program for recreational uses. In other words, landowners are prohibited from requiring that a recreational user pay cash (for example pay a lease on non-MFL lands, a hunting lodge or cabin, vehicle parking space, or making a donation to a charity or fund raiser), provide a material good (for example an ATV, culvert, gravel, television, or any other household or non-household item), or provide a service (for example shingle and put siding on a house, build a wildlife pond, restore an antique automobile, bail hay or harvest grain, etc.) as a condition for permitting recreation on their MFL land.

Note 2. Regarding if DNR would like additional wording on how a county becomes aware that DNR has entered an order of withdrawal and if we'd like additional language drafted.

DNR does not believe that additional language must be drafted to notify the county that an order of withdrawal has been issued since any withdrawal order is recorded with the county register of deeds. s. 77.82(8), Wis. Stats. requires the DNR to provide the applicant (landowner) with a copy of the order or amended order and to file a copy with the following:

- Department of revenue,
- Supervisor of assessments,
- Clerk of each municipality in which the land is located,
- And to record the order with the register of deeds in each county in which the land is located.

Although s. 77.82(8), Wis. Stats. refers to issuance of orders for applications, in effect DNR has also used this statutory provision to notify landowners and others when other types of orders, including withdrawal orders, are issued.

Note 3. Regarding embedded notes.

DNR found the notes and addressed them above.

Note 4. Regarding /P6 and /P7.

DNR appreciates the ability to review these drafts. Thanks.

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